



Appeal Decisions

Site visit made on 21 August 2019

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2019

Appeal A Ref: APP/W2465/W/18/3217419

Pavement to the north of 49 Oxford Street, Bonners Lane, Leicester LE1 5XY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Thomas Fisher, Euro Payphone Ltd against the decision of Leicester City Council.
 - The application Ref 20181159, dated 15 May 2018, was refused by notice dated 4 October 2018.
 - The development proposed is for the erection of 1no. smart hub with 2no. inset digital advertising screens.
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Appeal B Ref: APP/W2465/W/18/3217421

Pavement to the north of 49 Oxford Street, Bonners Lane, Leicester LE1 5XY

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Thomas Fisher, Euro Payphone Ltd against the decision of Leicester City Council.
 - The application Ref 20181160, dated 18 May 2018, was refused by notice dated 5 October 2018.
 - The advertisement proposed is for the erection of 1no. smart hub with 2no. inset digital advertising screens.
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Decision

1. Appeal A and Appeal B are dismissed.

Procedural Matters

2. Both appeals relate to the same appeal site and to each other. I have considered each on its individual merits, but as they raise similar issues and to avoid duplication, I have dealt with them in a single decision letter.
3. During my visit I observed that the highway layout near the site has been altered from that shown on the appellant's drawings. I have determined the appeal on the basis of the new layout.
4. This appeal has been lodged as part of a suite of appeals for similar devices in different locations within Leicester City Centre. The Council has provided a single statement of case that encompasses all appeals.

Main issues

5. With regard to appeal A, the main issues are the effect of the proposed structure on the character and appearance of the area; and, highway safety.
6. With regard to appeal B, the main issue is the effect of the proposed advertisement on visual amenity.

Reasons

Background

7. The appeal site comprises a section of pavement along Bonners Lane, near to its junction with Oxford Street. It is located outside the entrance to The Innovation Centre which is one of a number of buildings in the area associated with De Montfort University.
8. The proposal is for a 'smart hub' which incorporates two illuminated advertising screens, data connection point and a range of other public services¹. The public benefits relate to both its data connections and services. These include social and economic benefits and are detailed in the appellant's Statement of Case².

Character and appearance

9. Bonners Lane is a one-way road for motor vehicles with two-way cycle lanes. The appearance of the surrounding area is mixed, with predominantly modern education and commercial buildings in a range of scales and architectural styles. Most notably, there have been significant improvements to the public realm, in particular around the nearby university buildings including the appeal site. This includes widened pavements and extensive pedestrianised areas.
10. With the exception of a telephone kiosk approximately 22m west of the site, in general the existing street furniture is low-lying in the form of seating and bins along with slender items such as bollards, lighting columns and signposts. These are carefully arranged amidst areas of landscaping. Together they contribute positively to the quality of the public realm and the character and appearance of the area. Most notably, the extended pavement area incorporating trees along Bonners Lane creates an open and inviting thoroughfare leading to the pedestrianised areas west of the site.
11. However, the proposed smart hub would be relatively utilitarian and bulky, especially due to its comparatively thick frame. The thickness of the frame would be emphasised by the deep base, which barely tapers as it meets the ground, giving it a monolithic form. Moreover, it would be divorced from other street furniture and located within the centre of the pavement, outside the entrance of a building and near a junction, making it unduly prominent. Consequently, it would be viewed as a bulky and strident structure that would introduce a significant degree of visual incongruity. This would significantly detract from the quality of the public realm to the detriment of the character and appearance of the area.
12. As a result, in respect of appeal A, the proposal would fail to accord with Policy CS03 of the Leicester City-Local Development Framework Core Strategy 2014 (CS) which amongst other things requires that development contributes

¹ As set out in the submitted Planning Statement

² Appendix E-Smart Hub Public Benefits Schedule

positively to the character of an area. The proposal would also fail to accord with the Framework, which seeks well designed places where development is sympathetic to the local character.

Highway safety

13. As already stated, the pavement outside the site has been extended. As such, even with the siting of the smart hub, sufficient unobstructed footway would be retained along either side of it. The proposal would therefore have no harmful effect upon highway safety with regard to the free-flow of pedestrian movements.
14. Accordingly, in regard to appeal A the proposal would not be in conflict with Policies CS03 and CS14 of the CS. Insofar as these require that developments meet the highest standards of accessibility and support the provision of pedestrian routes, cycle routes and infrastructure to provide good access around the city. The proposal would also accord with the Framework, in so much as it seeks development that creates places that are safe and accessible.

Visual amenity

15. The proposed structure would be within a commercial area. However, the signage in the area is minimal and largely integrated into nearby buildings with either limited or no illumination. There are advertisements within the telephone kiosk west of the site. Nonetheless, the visual impact of these is absorbed by the much larger telephone kiosk structure they form part of and the adjacent street trees.
16. In contrast, each proposed display panel would occupy a substantial part of the street hub, which I have already found to be of a substantial scale. Furthermore, whilst the display on the smart hub would be smaller than a standard '6-sheet' display panel, its chunky frame draws attention and emphasises its bulk. Moreover, for the reasons already given siting of the proposed advertisement would be unduly prominent. Consequently, the proposal would appear incongruous and would be out of character with its context to the detriment of the visual amenity of the area.
17. Drawing on the above reasons, in regard to appeal B, the proposed advertisement would not accord with paragraphs 127 and 132 of the Framework, which requires development to be sympathetic to the local area, including in respect of amenity. In accordance with the Regulations, I have also considered the provisions of the development plan so far as it is material. To this end, the proposal would not accord with Policy CS03 of the CS, which requires well designed development that contributes positively to the character and appearance of the built environment.

Other Matters

Appeals A and B

18. In respect of design, the appellant has referred to an appeal decision³ in Belfast where the Commissioner considered that the smart hub would be similar in size to a modern phone box and be no more obtrusive than other advertisements in

³ Appellant's Statement of Case- Appendix I, Appeal Decision Reference 2017/A0237 & 2017/A0234

- the area. However, the full details of that proposal are not in evidence and the decision was made in a different policy context.
19. I acknowledge that smart hub has been designed to assist pedestrians who are visually impaired due to its simple base. However, such design features only have a limited bearing in favour of the proposal.
 20. There are other large items of street furniture in the City centre which include telephone kiosks, bus shelters and display panels. These are of different designs and therefore not comparable to the appeal scheme. Moreover, and irrespective of the appellant's allegation that the Council's approach to the smart hub proposals has included generic statements and an 'in principle' objection, I have determined each proposal on its own merits having regard to its specific context.
 21. The appellant also refers to the Council's approval of the BT InLink devices. He has raised concerns regarding the consistency of decision making, especially in regard to design comparisons. These issues have only a limited bearing on the main issues as the design of the proposal is markedly different to the approved BT InLink devices. I also recognise that the BT decisions may have been able to offer the removal of existing street furniture with a net loss of street furniture, this would have been a material benefit of those proposals.
 22. The appellant has referred to recently approved smart hub structures on Vaughan Way. Having considered the siting of those proposals, the context is significantly different to the appeal site. Those decisions have not therefore established a clear precedent. Furthermore, the Council's decision to approve those does not necessarily illustrate that the design and siting is appropriate in all circumstances. Nevertheless, the approved schemes demonstrate that the Council has not applied a moratorium on all 'smart hub' proposals.
 23. Chapter 10 of the Framework identifies that a high quality and reliable communication infrastructure is essential for economic growth and social well-being. It also seeks to prevent decision makers placing a ban on new installations or inhibit competition. Nonetheless, such considerations are not without regard to the Framework as a whole.
 24. The proposal would deliver some public benefits. However, these benefits would not outweigh the harm identified to the character and appearance and visual amenity of the area.

Conclusion

25. In respect of appeal A, although I have found no harm to highway safety, this does not outweigh the harm in relation to the character and appearance of the area.
26. For the above reasons appeals A and B are dismissed.

M Aqbal

INSPECTOR